

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Thirteenth Judicial District Court, County of Yellowstone

|                             |   |                     |
|-----------------------------|---|---------------------|
| STATE OF MONTANA,           | ) |                     |
|                             | ) |                     |
| Plaintiff,                  | ) | CAUSE NO. DC-17-350 |
|                             | ) |                     |
| -vs-                        | ) |                     |
|                             | ) | DECISION            |
| EDDIE ANTHONY LINSOMB, JR., | ) |                     |
|                             | ) |                     |
| Defendant.                  | ) |                     |

On November 2, 2017, the District Court sentenced the Defendant to the Department of Corrections for a term of thirteen (13) months, with a recommendation for the WATCH residential alcohol treatment program, for the offense of Count I: Driving a Vehicle Under the Influence of Alcohol or Drugs, a felony. After successful completion of the WATCH program, the remainder of the thirteen (13) month sentence was ordered to be served on probation. It was further ordered that Defendant be sentenced to the Department of Corrections for an additional five (5) years, all suspended, to run consecutive to the term imposed above. Defendant received credit for time already served from March 26, 2017 through March 27, 2017.

On February 22, 2018, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by videoconferencing from WATCH-East and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).


It is the unanimous decision of the Division that the Defendant's sentence shall be **MODIFIED**. Condition #39 of the judgment provides, "The Defendant shall apply for and graduate the 13<sup>th</sup> Judicial District Court Sobriety Treatment Education Excellence **Rehabilitation** (STEER) Court Program." The Division finds that **Condition #39 is clearly excessive and should be removed**. Requiring the Defendant to complete treatment court after completing the residential program of WATCH is excessive.

The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are AFFIRMED.

Done in open Court this 22 day of February, 2018.

DATED this 9<sup>th</sup> day of March, 2018.

SENTENCE REVIEW DIVISION

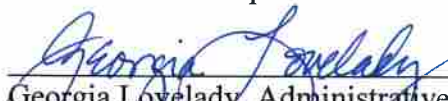
  
Hon. Kathy Seeley, Chairperson

  
Hon. Brenda Gilbert, Member

  
Hon. Dan Wilson, Member

Copies mailed this 13<sup>th</sup> day  
of March, 2018, to:

Clerk of District Court (Original)  
Eddie Anthony Linscomb, Jr. #3022327, Defendant (2)  
Hon. Mary Jane Knisely  
Brent Getty, Defense Counsel  
Margaret R. Gallagher, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
Georgia Loyelady, Administrative Assistant  
Sentence Review Division